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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities.

Investigation 07-01-022
(Filed January 11, 2007)

In the Matter of the Application of Golden State Water Company (U 133 E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.

Application 06-09-006
(Filed September 6, 2006)

Application of California Water Service Company (U 60 W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.

Application 06-10-026
(Filed October 23, 2006)

Application of Park Water Company (U 314 W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.

Application 06-11-009
(Filed November 20, 2006)

Application of Suburban Water Systems (U 339 W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.

Application 06-11-010
(Filed November 22, 2006)

ASSIGNED COMMISSISONER'S RULING AND SCOPING MEMO

This ruling revises the scope of the proceeding and the schedule as set forth in the preliminary scoping memo in the Order Instituting Investigation (OII). It also determines that the proceeding will have two phases, the first to consider rate-related conservation measures, including proposed settlement agreements establishing conservation rate design pilot programs, and the second to consider non-rate design conservation measures.

I deny Golden State Water Company's (Golden State) petition to modify the OII but grant Golden State the opportunity to amend its rate-related conservation proposals. I decline to consolidate the California American Water Company (Cal-Am) general rate case (GRC) applications with this proceeding. Instead, I will coordinate review of rate-related conservation measures in this investigation and in those GRC applications.

Background

The Commission opened this investigation to address policies to achieve its conservation objectives for Class A water utilities and ordered the consolidation of four pending conservation rate design applications — Application (A.) 06-09-006 (Golden State Water Company (Golden State)), A.06-10-026 (California Water Service Company (CalWater)), A.06-11-009 (Park Water Company (Park)), and A.06-11-010 (Suburban Water Systems (Suburban)).¹ Parties filed responses to the preliminary scoping memo on January 29, 2007, and a prehearing conference (PHC) was held on February 7,

¹ A January 16, 2007 ruling affirmed consolidation of the applications with the OII.

2007. Settlement discussions are underway in the consolidated applications, with the exception of Golden State.

Golden State filed a petition both to modify the OII and the ruling consolidating the proceedings on February 6, 2007. Responses to the petition were filed on February 16, 2007. By e-mail ruling on March 2, 2007, the administrative law judge (ALJ) suspended the schedule set forth in the OII pending issuance of this ruling and scoping memo.

Phase 1: Rate-Related Conservation Measures

The proposal to create two phases is unopposed. The first phase of this proceeding will address rate-related conservation measures, including the parties' increasing block rate and Water Revenue Adjustment Mechanism (WRAM) proposals.² Any settlements and motions proposing their adoption under Rule 12.1 of the Commission's Rules of Practice and Procedure shall be filed on or before April 23, 2007. In order to assess how any settlement addresses the rate-related conservation objectives identified in the OII, I will order the settling parties to discuss relevant issues in the motion proposing the settlement agreement and/or the settlement.

The motion and/or settlement agreement shall state whether the company has a low-income affordability program, metered service, and monthly or bimonthly bills. The motions shall address the impact of the settlement agreements on low-income affordability. The motion and/or settlement shall discuss how increasing block rate levels and the percentages between them were

² Suburban also filed for approval of a low income assistance program; that proposal will be addressed in Phase I.

determined and shall provide the settling parties' position on whether the increase in rates between tiers will effectively promote conservation. The motion and/or settlement shall provide data on elasticity of demand, *e.g.*, how do they calculate it, what assumptions were included, what studies were referenced, and what timeframe was used. The parties shall provide charts which illustrate the effect of the proposed rate structures, such as marginal and/or average price curves. These charts shall include fixed and consumption charges. If the settlement agreements do not include seasonal rates, the parties shall state why they believe they are unnecessary. The parties shall state whether the WRAM includes all or a subset of revenue and the basis for that determination. The parties shall justify whether the conservation rate design proposal should be effective after completion of this proceeding or after the next GRC. The parties shall propose customer education initiatives necessary to implement the settlements, including outreach efforts to limited English proficiency customers, monitoring programs to gauge the effectiveness of the adopted conservation rate design, and recommendations on how these results will be reported to the Commission.

Comments on the motions and settlement agreements and replies to those comments shall be filed on May 23 and June 7, 2007, respectively. By focusing the motions and comments on rate-related conservation issues identified in the OII, I seek to avoid hearings on the proposed conservation rate design programs. However, I will schedule dates for testimony and hearings, should they be necessary.

Phase 2: Non-Rate Design Conservation Measures

The second phase of this proceeding will consider the non-rate design conservation measures identified in the OII. The Division of Ratepayer

Advocates (DRA) and the Joint Consumers (the Consumer Federation of America, Disability Rights Advocates, Latino Issues Forum, National Consumer Law Center and The Utility Reform Network) proposed new questions and issues be addressed in Phase II. DRA's proposed expansion of the issues to include low-income water efficiency, integrated water resource management, performance and reporting requirements for meeting conservation goals, greenhouse gas emissions and financial incentives, is unopposed. The Joint Consumers propose consideration of eligibility requirements for low-income affordability programs and participation of the disability community in low-income programs. They also support expanding the discussion of rationing programs to include the study of water shortage scenarios and mandating exceptions to rationing programs. Both DRA and the Joint Consumers state the Commission should consider low income water efficiency programs similar to the Low Income Energy Efficiency (LIEE) program. DRA acknowledges that consideration of its proposals might be resource-intensive.

Consideration of means to reduce greenhouse gas emissions for water utilities is both premature and resource-intensive. I recognize the need to coordinate efforts in this proceeding with the water and energy issues, including the pilot program, in the energy efficiency proceeding, Rulemaking 06-04-010, and will ensure that such coordination occurs. I am reluctant to expand the scope of this investigation in a manner that would greatly expand parties' workload but will ensure performance measurement for conservation rate designs adopted in Phase I, incentives to achieve conservation, and funding sources for non rate-related conservation measures are thoroughly addressed.

To achieve full consideration of existing issues, broadening the discussion to incorporate many of DRA's and the Joint Consumers' concerns is reasonable.

Consideration of low-income affordability programs, impacts on the disability community and broadening of monitoring programs to non-price conservation programs are logical extensions of issues raised in the OII. Similarly, setting conservation rates for multi-family dwellings is a necessary component of a conservation program. Consideration of the applicability of rationing to water shortages also is reasonable.

I will finalize the scope of Phase II by a subsequent ruling. I plan to issue a Phase II scoping memo in or around June 2007 to set both its scope and schedule.

Golden State's Petition to Modify

Golden State's petition requests that A.06-09-006 be removed from this proceeding or, in the alternative, that Golden State be permitted to amend portions of its application to conform to the scope of this proceeding. DRA's response to Golden State's petition, filed on February 16, 2007, recommends that Golden State file a new application for its non-conservation issues and submit district-specific conservation rate designs in this investigation.

I appreciate Golden State's complete Water Action Plan proposals. The OII recognized that Golden State raised issues concerning water quality and infrastructure and that those issues were beyond the scope of this OII and solicited comments on how to handle those issues. Although I lack the authority to modify the OII in a ruling, this scoping memo can address procedures to handle both the consolidated and remaining issues.

I deny Golden State's petition to remove A.06-09-006 from this proceeding but grant Golden State the requested opportunity to amend. Golden State shall amend its application on or before April 23, 2007 to present rate-related conservation measures to be considered in this proceeding. Golden State's testimony is the only filed testimony in this investigation, since Golden State's

application was filed before the rules precluding the filing of testimony were adopted by the Commission. Since the testimony does not represent Golden State's position in this OII, it shall be deemed withdrawn and shall have no evidentiary effect.

The remaining Water Action Plan issues in Golden State's application will not be considered in this proceeding. The ratesetting timetable in this proceeding is limited, which does not permit consideration of those remaining issues in Phase I; statewide rates were removed from this proceeding in the OII. Golden State shall re-file its application at its convenience and shall serve its application on this service list and on the protestants to A.06-09-006.

Cal-Am's GRCs

Cal-Am's GRCs, filed January 22, 2007, are on a different timetable than that established for Phase I of this proceeding. Any settlement reached between Cal-Am and DRA cannot be considered concurrently with the settlement agreements filed in this investigation. Consolidating the conservation rate design issues with this proceeding would not be efficient, and I decline to do so. Instead, I will ensure that conservation rate design issues in the GRC proceedings, A.07-01-036 through A.07-01-039, are coordinated with this investigation. I will require the settling parties to address rate-related conservation objectives in their motion proposing settlement and/or settlement, similar to the comments ordered today.

Categorization and Hearings

In the OII, the Commission preliminarily determined that this is a ratesetting proceeding. The parties uniformly propose that Phase II be categorized as quasi-legislative. By proceeding with two phases, the initial phase of this proceeding shall continue as ratesetting and the second phase shall be

changed to quasi-legislative. The Commission preliminarily determined that hearings might be necessary to implement policy issues for individual companies. The parties also believe the rulemaking phase, *i.e.*, Phase II, may require hearings. I concur. Quasi-legislative hearings may be necessary in Phase II. If there are areas of factual dispute, hearings on those issues may proceed with pre-served testimony.

Timetable

Pursuant to the OIL, the undersigned assigned Commissioner and/or the ALJ may revise the schedule. I revise the schedule as follows:

April 23, 2007	Parties file motions proposing settlement agreements; Golden State files rate-related conservation proposals
May 23, 2007	Comments on proposed settlement agreements
June 7, 2007	Reply comments on proposed settlement agreements
June 29, 2007	Opening testimony on rate-related conservation measures or settling parties' testimony on contested issues
July 20, 2007	Reply testimony on rate-related conservation issues or contesting parties' testimony on contested issues
July 20-August 3, 2007	Hearings – Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102
TBD	Briefs
TBD	Mailing of proposed decision, first possible Commission consideration of proposed decision

The parties who intend to file notices of intent (NOI) requested an extension to file the NOIs until after the scoping memo issued in order to prepare

more detailed and accurate NOIs. The parties' request is reasonable, and I grant an extension from March 9 until March 19, 2007 to file the NOIs.

Presiding Officer

In Phase I of this proceeding, ALJ Janice Grau shall be the hearing officer.

Rules Governing Ex Parte Communications

The OII noted that *ex parte* communications were subject to certain restrictions. The restrictions set forth in Rule 8.2(c) and the reporting requirements set forth in Rule 8.3 remain applicable to Phase I of this proceeding. In Phase II, no *ex parte* restrictions or reporting are required, pursuant to Rule 8.2(a).

Final Oral Argument

Pursuant to Public Utilities Code Section 1701.3(d) and Rule 13.13(b), and in the event that an evidentiary hearing has been held, any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of concurrent opening briefs.

IT IS RULED that:

1. The scope of and the timetable for this proceeding are as set forth herein.
2. The petition of Golden State to modify order is denied as set forth herein. Golden State shall file its amended conservation rate design proposals on or before April 23, 2007 and shall re-file its remaining Water Action Plan proposals in a new application.
3. With respect to issues addressed in evidentiary hearings, if such hearings are held, any party requesting final oral argument before the Commission shall make such request by letter to the ALJ on the date set for filing of concurrent opening briefs.

Dated March 8, 2007, at San Francisco, California.

/s/ JOHN A. BOHN

John A. Bohn
Assigned Commissioner

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated March 8, 2007, at San Francisco, California.

/s/ ERLINDA PULMANO
Erlinda Pulmano

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Last Update on 05-MAR-2007 by: LIL
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